

**REMARKS**

Reconsideration and withdrawal of the rejections of the application are requested in view of the amendments and remarks presented herein, which place the application into condition for allowance.

**I. STATUS OF CLAIMS AND FORMAL MATTERS**

Claims 1, 2, 15, 22-24, 27, 31, 33 and 34 are pending in this application. Claims 1, 15, 24, 27, 31 and 33 are amended. A new Sequence Listing, adding the sequence of VP22 as taught in WO 97/05265, is enclosed. The specification and claim 24 have been amended to add a sequence identifier corresponding to VP22. This sequence was incorporated into the application by reference to WO 97/05265 on page 21, lines 24-25, and is explicitly added for clarity.

The amendments to claims 31 and 33 find support in cancelled claims 28-30. As these are method claims depending from claim 1, a product claim, rejoinder of claims 31 and 33 in accordance with the provisions of MPEP § 821.04 is requested. No new matter is added.

The claims, herewith and as originally filed, are patentably distinct over the prior art, and these claims are in full compliance with the requirements of 35 U.S.C. §112. The amendments and additions to the claims, as presented herein, are not made for purposes of patentability within the meaning of 35 U.S.C. §§ 101, 102, 103 or 112. Rather, these amendments and additions are made simply for clarification and to round out the scope of protection to which Applicants are entitled.

**II. THE REJECTIONS UNDER 35 U.S.C. § 112, 2<sup>ND</sup> PARAGRAPH, ARE OVERCOME**

Claim 1 was rejected under Section 112, second paragraph, as allegedly being indefinite for referring to non-elected subject matter. Claim 1 has been amended to remove the recitation of non-elected subject matter, obviating the rejection of claim 1 and its dependent claims on that basis.

Claim 15 was rejected under Section 112, second paragraph, as allegedly being indefinite for depending from a cancelled claim and for being unclear with respect to what the second sequence comprises. Claim 15 has been amended to depend from claim 1, and to specify that the second sequence comprises at least one of RAM, PEST or OPA. Therefore, the rejection of claim 15 is moot.

Claims 22 and 27 were rejected under Section 112, second paragraph, as allegedly being indefinite for reciting "transport protein," which does not find antecedent basis in claim 1.

Neither claim 22 nor claim 27 recite, or have ever recited, "transport protein." It is submitted that this portion of the indefiniteness rejection was made in error. Claims 22 and 27 do recite "transport function," the meaning of which is explained in detail in the sections of the specification beginning on page 21, line 22.

Claim 24 was rejected under Section 112, second paragraph, as allegedly being indefinite with respect to the term "about" and with respect to a reference sequence identification number. The amendments to claim 24 have rendered this rejection moot.

Claim 27 was rejected under Section 112, second paragraph, as allegedly being indefinite for its recitation of a "variant" of HIV tat protein. That aspect of claim 27 has been removed, overcoming the rejection.

Claim 35 was rejected under Section 112, second paragraph, as allegedly being indefinite because it was unclear what disease or infection was being treated. Claim 35 has been cancelled, rendering the rejection moot.

Reconsideration and withdrawal of the indefiniteness rejections are requested.

### **III. THE REJECTIONS UNDER 35 U.S.C. § 112, 1<sup>ST</sup> PARAGRAPH, ARE OVERCOME**

Claims 35 and 36 were rejected under Section 112, first paragraph, as allegedly lacking enablement. These claims have been cancelled, obviating the rejection. Reconsideration and withdrawal are requested.

### **CONCLUSION**

In view of these remarks and amendments, the application is believed to be in condition for allowance. Favorable reconsideration of the application and prompt issuance of a Notice of Allowance are earnestly solicited.

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